

**STATE OF ARIZONA**  
**CITIZENS CLEAN ELECTIONS COMMISSION**

MUR: No. 04-0069

STATEMENT OF REASONS OF EXTERNAL INVESTIGATIVE CONSULTANT

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On behalf of the Citizens Clean Elections Commission (“Commission”), the External Investigative Consultant hereby provides the Statement of Reasons showing reason to believe violations of the Citizens Clean Elections Act (“Act”) and Commission rules have occurred.

**I. Procedural Background**

On April 8, 2005, Patrick Meyers (“Complainant”) filed a complaint against Kyrsten Sinema (“Respondent”), a participating candidate for State Representative, District 15, alleging 23 violations of the Act by Respondent. Exhibit A. On April 14, 2005, Respondent responded to the complaint and provided supporting documentation for certain expenditures and argument concerning other of the allegations. Exhibit B. Respondent’s campaign finance report for the 2004 election cycle is attached. Exhibit C.

**II. Alleged Violations**

The violations of the Act contained in the complaint can be grouped into four categories for purposes of analysis.

1) Allegations 1 and 2 claim the Respondent’s campaign finance reports provided inadequate descriptions of campaign expenditures. The Commission’s rule governing “reporting requirements” is found in A.R.S. Sec. 16-941(C)(2) and A.R.S. Sec. 16-948(C) and requires all campaign finance reports to include the same information regarding receipts and disbursements as required by A.R.S. Sec. 16-915. That section, in paragraph (A)5, requires reports to include “the name and address of each recipient of an expenditure...together with the date, amount of expenditure and a clear description of the items or services purchased.” Respondent has explained each disbursement alleged to be inadequate, has amended her campaign finance report accordingly, and there exists no reason to believe a violation continues.

2) Allegations 3, 8, 9, 11, 12, 14, 16, 18, 19, 20, 21, 22 and 23 all identify expenditures which, it is alleged, were not reported on the dates they were incurred but were reported later than they should have been. Respondent’s response establishes that the committee routinely reported expenditures as having occurred on the date the invoice for goods or services ordered by the campaign was received. However, as set forth in A.R.S. Sec. 16-901 (8), expenditures include contracts, promises and agreements to make expenditures as of the dates the obligations to make the payments are incurred. See A.R.S. Section 16-915(A). A number of the alleged late-reported expenditures were made in coordination of Respondent’s campaign with that of David Lujan, also a candidate for State Representative, District 15, and it appears that while the

campaigns were coordinated the campaign finance reporting was not. Attached as Exhibits D and E are the Pre-General Campaign Finance Reports of the Respondent's committee and the Lujan committee, respectively. A review of the reports indicate late reporting by the Respondent omitted from public disclosure prior to the election a number of expenditures and the Respondent's Pre-General CFR was not correct. Therefore, there exists reason to believe violations of the Act or Commission rules have occurred.

3) Allegations 4, 5, 6, 7, 13, 15 and 17 all refer to expenditures by Respondent where, it is alleged, payments were not made directly to the vendors providing goods or services and violations of A.R.S. Sec. 16-948(C) occurred. Respondent's response and documentation provided demonstrate that the allegations are without merit. There is no reason to believe that violations of the Act as alleged have occurred.

4) Finally, allegations 10 and 17 identify payments to the Lujan campaign committee which, it is asserted, are made in violation of the Act or Commission rules. Respondent's response explains satisfactorily each expenditure, and there is no reason to believe A.A.C. R2-20-702 governing use of campaign funds generally and A.A.C. R2-20-703(C) governing joint expenditures have been violated as alleged.

## **II. Reason to Believe Finding**

Based upon the Complaint, Respondent's response, and the results of staff study, the External Investigative Consultant recommends the Commission find reason to believe violations of the Act and/or Commission rules occurred, as detailed above, warranting an investigation.

If the Commission determines by an affirmative vote of at least three of its members that it has reason to believe a respondent has violated a statute or rule over which the Commission has jurisdiction, the Commission shall notify Respondent of the finding setting forth: (1) the sections of the statute or rule alleged to have been violated; (2) the alleged factual basis supporting the finding; and (3) an order requiring compliance within fourteen days. During that period, the Respondent may provide any explanation to the Commission, comply with the order, or enter a public administrative settlement. A.R.S. Sec. 16-957(A) and A.A.C. R2-20-208(A).

After the Commission finds reason to believe that a violation of a statute or rule over which the Commission has jurisdiction has occurred, the Commission shall conduct an investigation. A.A.C. R2-20-209(A). Upon expiration of the fourteen days, if the Commission finds that the alleged violator remains out of compliance, the Commission shall make a public finding to that effect and issue an order assessing a civil penalty in accordance with A.R.S. Sec. 16-942, unless the Commission publishes findings of fact and conclusions of law expressing good cause for reducing or excusing the penalty. A.R.S. Sec. 16-957(B).

Dated this 17<sup>th</sup> day of August, 2005

By: \_\_\_\_\_  
L. Gene Lemon  
External Investigative Consultant